

ILLINOIS POLLUTION CONTROL BOARD
January 10, 1980

IN THE MATTER OF:)
) R78-6
PROCEDURAL RULES REVISIONS (Part VI:)
Hearings Pursuant to Specific Rules))

SUPPLEMENTAL ORDER OF THE BOARD (by Mr. Goodman):

The December 13, 1979 Order in this matter indicated no changes to old Parts VI and VI(A). They now are denominated Rules 601-607 and Rules 611-614 as indicated below:

PART VI: HEARINGS PURSUANT TO SPECIFIC RULES

601-609 Rule 203(i)(5) of the Water Pollution Control Regulations

601 Petition

- (a) A hearing pursuant to Rule 203(i)(5) of the Water Pollution Control Regulations, Chapter 3 of the Board's Rules and Regulations, shall be commenced by filing a petition for Rule 203(i)(5) hearing with the Agency and by filing ten copies with the Clerk of the Board.
- (b) At the time of filing its petition, petitioner shall submit to the Agency and to the Board any reports or other evidence in accord with Rule 602 hereinafter including all evidence petitioner intends to introduce at the hearing.

602 Requirements for Petition

The following information, where applicable, shall be filed:

- (a) General Plant Description
 - 1. Generating capacity;
 - 2. Type of fuel used;
 - 3. Operating characteristics of the condenser cooling system;

4. History of the load factor of the plant for the last five years;
5. Projected load factors for the life of the plant;
6. Estimated date of retirement for each unit at the plant and any plans for additional units at the plant;
7. History of plant shutdowns; and
8. Planned, emergency, and projected shutdowns with frequency and duration.

(b) Description of Method for Heat Dissipation

1. Type of system used (once-through, mechanical draft cooling towers, etc.), in narrative forms; and,
2. Summary information on temperature of discharge to receiving waters in narrative form.

(c) Plume Studies

1. Actual plume studies in the last five years correlated with plant operation and meteorological conditions;
2. Theoretical plume studies for all four seasons for typical and worst case conditions. Worst case conditions shall be identified as worst conditions of plant load factor, precipitation, ambient water temperature, air temperature; such studies shall consider the frequency of occurrence and their joint probabilities of occurrence; and,
3. Theoretical plume studies which identify isotherms at 3° Fahrenheit intervals down to ambient temperature indicating three dimensional effects.

(d) The discharger shall satisfactorily demonstrate that discharges from that source have not caused and cannot be reasonably expected to cause significant ecological damage to the receiving waters, including but not limited to:

1. Biological studies in the last five years on receiving waters, including species studies, location of studies, and conclusions reached,

including conclusions as to both the lethal and sublethal effects of the thermal discharge;

2. The impact on other animal life (wildfowl, amphibians, etc.) in the area as a result of the thermal discharge; and,
3. Secondary considerations
 - (a) Possible and known impact on recreation from thermal discharges; and
 - (b) Management practices employed or planned in order to limit the effect of any environmental harm established under paragraph (d) above.
4. The required showing in this paragraph (d) may take the form of an acceptable and still accurate final environmental impact statement or pertinent provisions of environmental assessments used in the preparation of the final environmental impact statement, or may take the form of a showing pursuant to Rule 410(c) or Rule 203(i)(10).

603 Parties. The Agency shall be joined as a party in any hearing pursuant to this part.

604 Recommendation

- (a) Within sixty days of the filing of the petition, the Agency may make a recommendation to the Board as to the ecological impact of the thermal discharges from petitioner's source upon the receiving waters. Such recommendation may include:
 1. A description of the efforts made by the Agency in conducting its review;
 2. The Agency's conclusion as to whether discharges from the source have caused or can reasonably be expected to cause significant ecological damage to the receiving waters;
 3. The factual basis for the Agency's conclusion;
 4. Any corrective measures which the Agency recommends be taken and the recommended time period for implementation of such measures; and
 5. The Agency's conclusion of what disposition should be made of the petition.

- (b) The Agency shall serve a copy of its recommendation upon petitioner personally or by First Class United States mail, and ten copies shall be filed with the Clerk with proof of service. Filing of a recommendation by the Agency beyond the sixty-day period shall be grounds for the Board to postpone consideration of the petition to a date which will allow reasonable time to prepare.
- (c) The petitioner or any other person may file a response to the Agency recommendation within 14 days with proper notice given to the Board and the Agency.

605 Notice and Hearing

- (a) The Clerk shall give notice of the petition and hearing in accordance with Part III of these Rules. The proceedings shall be in accordance with the Rules set forth in Part III. However, the Part III requirements as to the county in which the hearing is to be held shall be inapplicable.
- (b) In a hearing, the burden of proof shall be on petitioner.
- (c) The record from any proceeding pursuant to Rule 203(i)(10) or Rule 410(c) of the Chapter 3, in which the source which is the subject of the Rule 203(i)(5) hearing was a party, shall be incorporated into the record of the Rule 203(i)(5) hearing.

606 Transcripts

- (a) In any proceeding brought pursuant to Rule 203(i)(5), the petitioner at its own cost shall furnish to the Board within 15 days following the completion of the hearing seven legible copies of a complete stenographic transcript of the proceedings of the hearing.
- (b) Upon petition and good cause shown, the Board may assume such cost.

607 Opinion and Order

- (a) Subsequent to hearing, the Board shall prepare a written Opinion and Order, which shall include:
 - 1. Findings of fact, with references to principal supporting items of evidence in the record;

2. The Board's final determination as to whether discharges from the source have caused or can reasonably be expected to cause significant ecological damage to the receiving waters; and
3. Any corrective measures the Board finds appropriate.

- (b) If the Board requires corrective measures to be taken, it may require the posting of sufficient performance bond or other security to insure the implementation of such corrective measures within the time prescribed.
- (c) The Clerk shall publish the Opinion and Order with the vote of each Board Member recorded and shall notify petitioner of such Opinion and Order.

608-610 Reserved

611-619 RULE 203(i)(10) OF THE WATER POLLUTION CONTROL REGULATIONS

611 Petition - A hearing pursuant to Rule 203(i)(10) of the Water Pollution Control Regulations, Chapter 3 of the Board's Rules and Regulations, shall be commenced by filing a petition for a determination of specific thermal standards pursuant to Rule 203(i)(10)(ee). At the time such petition is filed, the petitioner shall submit to the Agency and to the Board any reports or other evidence which it plans to introduce in support of said petition.

612 Notice and Hearing

- (a) The Clerk shall give notice of the petition and hearing in accordance with Part III of these Rules. The proceedings shall be in accordance with the Rules set forth in Part III, except as otherwise provided herein.
- (b) In a hearing, the burden of proof shall be on the petitioner.
- (c) Intervention shall be allowed by any party in accordance with Rule 310 of this Chapter, except that such intervention shall not be limited by parts 310(a)(1) and 310(a)(2) of that Rule.

613 Transcripts

- (a) In any proceeding brought pursuant to Rule 203(i)(10), the petitioner at its own cost shall furnish to the Board within 15 days following the completion of the hearing seven legible copies of a complete stenographic transcript of the proceedings of the hearing.
- (b) Upon petition and good cause shown, the Board may assume such cost.


614 This part pertaining to Rule 203(i)(10) shall apply to petitions filed subsequent to April 1, 1977.

615-620 Reserved

IT IS SO ORDERED.

Mr. Werner dissents.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 10th day of January, 1980 by a vote of 3-1.


Christan L. Moffett, Clerk
Illinois Pollution Control Board